

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
LYNCHBURG DIVISION

SHANTA LYNETTE BROWN, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action: 6:23cv00054
	)	
THE CITY OF LYNCHBURG, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**DEFENDANTS' REPLY BRIEF IN SUPPORT**  
**OF MOTIONS TO DISMISS**

Defendants Deputy Zachary Miller and LPD Officer Robbin Miller ("Defendants"), by counsel, respectfully submit this reply brief in support of their motions to dismiss.

**1. Defendants adopt the Reply Memorandum of the City and Officer Reed.**

Defendants hereby adopt the substance and arguments of Defendants' Reply Memorandum in Support of Motion to Dismiss (ECF 22) filed by Defendants City of Lynchburg and Officer Seth Reed.

**2. The ruling in *Brown* applies here to prohibit the tolling of the statute of limitations.**

Additionally, Defendants reassert that this Court's ruling in *Brown v. Edmonds*, 2012 U.S. Dist. LEXIS 90093 (W.D. Va. June 28, 2012) does apply here. Again, the question in *Brown* is not whether the criminal charges and civil claims resulted from the same incident. It is whether the facts *that must be proven* in the civil and criminal proceedings are the same. *Id.* at \*6.

Here, as in *Brown*, the facts necessary to prove whether the Plaintiffs assaulted and battered the defendant police officers and obstructed justice are not the same facts necessary to

prove whether the defendant police officers unlawfully seized or falsely imprisoned the Plaintiffs, and they are not even remotely the same facts necessary to prove the various *Monell* claims against the City.

Thus, Va. Code § 8.01-229(K) did not toll the 2-year statute of limitations on Plaintiffs' non-malicious-prosecution claims, and the Court ought to dismiss those claims against Deputy Zachary Miller and LPD Officer Robbin Miller as well.

WHEREFORE, Defendants Deputy Zachary Miller and LPD Officer Robbin Miller, by counsel, respectfully request that the Court dismiss with prejudice the Plaintiffs' claims against them, and grant such other relief as the Court may deem just and appropriate.

DEPUTY ZACHARY MILLER and LPD  
OFFICER ROBBIN MILLER

By /s/ John R. Fitzgerald  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of January, 2024, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to:

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